



## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket Nos. CP20-52-000, CP20-52-001]

#### WBI Energy Transmission, Inc.; Notice Denying Late Intervention

On February 14, 2020, as amended on July 28, 2020, WBI Energy Transmission, Inc. (WBI) filed an application in Docket Nos. CP20-52-000 and CP20-52-001 under section 7(c) of the Natural Gas Act and Part 157 of the Commission's regulations seeking authorization to construct and operate its North Bakken Expansion Project in Burke, McKenzie, Mountrail, and Williams, Counties, North Dakota.

On February 26, 2020 and August 4, 2020, the Commission issued notices of WBI's application and amendment, establishing March 18, 2020, and August 25, 2020, respectively as the deadlines to file motions to intervene. On May 26, 2021, the Natural Gas Supply Association and the Center for Liquefied Natural Gas (Industry Groups) filed a late motion to intervene.

Under Rule 214 of the Commission's Rules of Practice and Procedure, a motion to intervene must state the movant's interest in sufficient factual detail to demonstrate that the movant has or represents an interest that may be directly affected by the outcome of the proceeding or that the movant's participation is in the public interest.<sup>1</sup> Movants for late intervention must "show good cause why the time limitation should be waived"<sup>2</sup> and

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<sup>1</sup> 18 CFR 385.214(b)(2)(ii)-(iii).

<sup>2</sup> *Id.* § 385.214(b)(3).

provide justification by reference to the other factors set forth in Rule 214(d) of the Commission's Rules of Practice and Procedure.<sup>3</sup> When acting on any untimely motion to intervene, Rule 214(d) states that the Commission may consider whether: (1) the movant had good cause; (2) disruption of the proceeding might result from permitting intervention; (3) the movant's interest is adequately represented by other parties in the proceeding; (4) any prejudice to, or additional burdens upon, the existing parties might result from permitting the intervention; and (5) movant satisfied the Commission's filing requirements, including that it demonstrates it is directly affected by the proceeding and its intervention is in the public interest.<sup>4</sup>

In explaining why they were unable to intervene in a timely manner, Industry Groups state that, due to the Commission's decision in an unrelated proceeding, they seek to intervene in these proceedings to allow them to protect their interests should the Commission announce a new policy that might affect them.<sup>5</sup> Here, the Industry Groups fail to demonstrate they have an interest in the proceeding or good cause for their failure to file a timely intervention.<sup>6</sup> Thus, this notice denies their untimely motion to intervene.

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<sup>3</sup> *Id.* § 385.214(d)(ii)-(iv) (factors include the potential disruption caused by such late intervention, whether the movant's interest is not adequately represented by other parties, and any prejudice to existing parties). *See Northern Natural Gas Co.*, 175 FERC ¶ 61,052 (2021).

<sup>4</sup> 18 CFR 385.214(d).

<sup>5</sup> *See* Industry Groups Motion to Intervene at 4.

<sup>6</sup> *See, e.g., Pacific Gas & Electric Co.*, 164 FERC ¶ 61,121, at P 21 (2018) (denying late intervention when the primary reason for late intervention was a concern about precedential effect).

This notice constitutes final agency action. Requests for rehearing of this notice must be filed within 30 days of the date of issuance of this notice, pursuant to section 19(a) of the Natural Gas Act, 15 U.S.C. 717r(a), and Rule 713 of the Commission's Rules of Practice and Procedure, 18 CFR 385.713.

Dated: May 28, 2021.

**Kimberly D. Bose,**

*Secretary.*

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